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9 **UNITED STATES OF AMERICA**

10 **NATIONAL LABOR RELATIONS BOARD**

11 CALIFORNIA COMMERCE CLUB,
12 INC., doing business as COMMERCE
13 HOTEL AND CASINO,

14 Employer,

15 and

16 WILLIAM J. SAULK,

17 Charging Party.

No. 21-CA-149699

**MOTION OF ALFONSO VALADEZ TO
INTERVENE**

COMES NOW, proposed intervenor Alfonso Valadez (“Valadez”) and moves to intervene in California Commerce Club, Inc., Doing Business as Commerce Hotel and Casino, Employer, and William J. Sauk, Charging Party, Case No. 21-CA-149699 (“*Sauk Case*”) on the following basis:

On June 19, 2020, the Board issued a decision in the *Sauk Case*, 369 NLRB No. 106 (2020) finding the confidentiality agreement Mr. Sauk was subject to did not run afoul of the National Labor Relations Act. That decision is now the subject of a Motion for Reconsideration by the Charging Party.

Valadez filed a Charge against the same employer, California Commerce Club, Inc. in 2016 alleging the same unfair labor practices, arising from the same confidentiality agreement. The charge, California Commerce Club, Inc., Case No. 21-CA-185072 was filed in Region 21.

After the Board’s recent decision in the *Sauk Case*, the Regional Director of Region 21 of the NLRB, on July 9, 2020, dismissed 21-CA-185072 on the basis of the *Sauk* decision. A copy of the dismissal letter is submitted herewith. It provides in relevant part:

At the time that your case was filed in September 2016, it was placed in abeyance pending the outcome of Case 21-CA-149699[*Sauk Case*], which case alleged identical allegations against the Employer and was pending before the U.S. Court of Appeals for the DC Circuit.

On July 5, 2018, the U.S. Court of Appeals for the DC Circuit remanded Case 21-CA-149699 back to the Board to decide the portion of the charge alleging that the confidentiality provision within the arbitration agreement was unlawful. On June 19, 2020, the Board issued its decision in Case 21-CA-149699 in *California Commerce Club, Inc.*, 369 NLRB No. 106 (2020), finding that the confidentiality provision at issue did not violate the NLRA... Based on the above procedural history, and because Case 21-CA-185072 involves the identical Employer and remaining allegations as Case 21-CA-149699, I am removing Case 21-CA-185072 from abeyance and dismissing the case.

On July 22, 2020 Valadez appealed the dismissal of his charge to the General Counsel. Given that the facts and issues are identical in the two cases, and the outcome of

1 *Sauk* at the Board and in the courts will necessarily inform the outcome of Valadez's
2 claims, intervention is appropriate and should be permitted.

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5 DATED: July 24, 2020

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7 DENNIS F. MOSS
8 ATTORNEY FOR PROPOSED INTERVENOR
9 ALFONSO VALADEZ
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PROOF OF SERVICE

NATIONAL LABOR RELATIONS BOARD

California Commerce Club, Inc.

Case No.: 21-CA-149699

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 15300 Ventura Boulevard, Suite 207, Sherman Oaks, CA 91403.

I served the document(s) described as **MOTION OF ALFONSO VALADEZ TO INTERVENE** the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

SEE ATTACHED SERVICE LIST

☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.

☒ **BY ELECTRONIC TRANSMISSION:** On the date set forth below I caused to be transmitted the document(s) listed above on the parties listed herein via email in this action before 6:00 p.m. I hereby certify that this document was served from Sherman Oaks, California.

☐ **BY FAX:** I hereby certify that this document was served from Los Angeles, California, by facsimile delivery on the parties listed herein at their most recent fax number of record in this action.

☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the offices of the addressee(s) named herein.

☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed July 24, 2020 at Sherman Oaks, California.

Lea Garbe
Type or Print Name


Signature

1 **SERVICE LIST**
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